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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/805,994 | 03/22/2004 | Ari Juhani Peltola | 872.0145.U1(US) | 1211 |
| 29683 | 7590 | 07/18/2005 | EXAMINER | |
| HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212 | | | CHOW, CHARLES CHIANG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2685 | |

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/805,994 | PELTOLA, ARI JUHANI |
| | Examiner | Art Unit |
| | Charles Chow | 2685 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 March 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 5-7, 10, 13 and 14 is/are allowed.
 6) Claim(s) 1-4, 8-9, 11-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Detailed Action***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-4, 8-9, 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claims 1, 3, 8, 11, the “where no base station is transmitting to the UE” and the “received signal” are contradictory. There should be no received signal due to no base station is transmitting. The claimed feature is not described in detail about the situation for the no transmitting and the received signal.

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance:

Applicant has shown that reference **Toskala et al. (2003/0219,037 A1)** belongs to

Assignee, **Nokia Corporation** (page 7 of applicant's amendment).

Claims 5-7, 10, 13-14 are allowable over the prior art of record, the prior art fails to teach singly, particularly, or in combination, the subject matter, for the **in response to detecting a case where selected primary cell fails to transmit a downlink dedicated physical channel DPCH to the UE, inserting predetermined sample values into the output of a UE receiver prior to a UE channel decoder; and decoding the predetermined sample values as zero bit so as to maintain proper channel decoder operation, for the site selection diversity transmit, to prevent the situation when there is no response in the messages for the requesting of a communication channel from base stations in the downlink physical**

Art Unit: 2685

channel DPCH, to the mobile station, as shown in independent claims 5, 6, 8, 10, 13. The dependent claims are also allowable due to their dependency upon the independent claims having additional claimed features.

The closest patent to **Kim et al. (US 2003/0095,532 A1)** teaches the uplink channel UL-DPCH transmitted from user equipment UE (Fig. 3A), which has feedback field FBI 314 which contains control information for site selection diversity transmission SSDT [0016, 0053], the channel quality indicator CQI [0017], the selecting of best primary cell [0008-0009], Kim fails to teach the detecting a case where no base station is transmitting to UE; inserting predetermined values into a received signal and decoding the predetermined values.

Other prior arts in below has been considered, but they fail to teach the above claimed features.

Futamura (US 5,910,947) teaches the base station does not receive the reply from master base station, due to another base station communicating with the identical master station, only transmit the “no sensing”, sense value of 999 to mast station (col. 20, lines 20-35, col. 6, lines 45-65, abstract),

Kobayashi (US 6,721,564 B1) teaches the rake receiver 25 comprising 4 (fingers, Fig. 2, col. 8, lines 8-20), the microprocessor MPU 13 (Fig. 2, col. 43-49), the MPU 13 comprising measurement control means (col. 8, lines 42 to col. 9, line 10) assigning the at least one finger to demodulate the downlink signal, and determining that too little energy is present in the at least one finger that is assigned to demodulate the downlink signal (the step 3a, Fig. 3), for the mobile terminal to measure the receiving strength of pilot channel (step 3f; col. 9, line 60 to col. 10, line 15; col. 2, lines 31-67).

Childress et al. (US 5,175,866) teaches the trunking card cease attempting to communicate with the failed primary controller, by communicating with another site controller, to prevent the effect from a failure site controller (abstract, Fig. 6A-6E, Fig. 8, col. 14, line 58 to col. 15, line 22; col. 18, lines 32-56).

Riedle (US 2005/0039,205 A1) teaches the controller can setup a null value for the retire channel X [0048-0049], having later filing date 8/12/2003.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

3. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's amendment for based on the argument that cited reference Torskala belongs to assignee, Nokia Corporation, the ground of rejection has been changed, claims 1-4, 8-9, 11-12 are rejected under second paragraph of 35 U.S.C. 112, and claims 5-7, 10, 13-14 are allowable.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Chow whose telephone number is (571) 272-7889. The examiner can normally be reached on 8:00am-5:30pm.

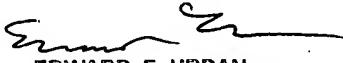
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2685

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Chow C.C.

June 13, 2005.


EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600